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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

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7 UNITED STATES OF AMERICA,

8 Plaintiff(s),

9 v.

10 STEVEN GRIMM, et al.,

11 Defendant(s).

Case No. 2:08-CR-64 JCM (GWF)

ORDER

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13 Presently before the court is the United States of America's ("the government") motion for
14 extension of time. (ECF No. 714). Petitioner Eve Mazzarella's ("petitioner") did not respond, and
15 the time to do so has passed.

16 Also before the court is the government's for leave to file expanded brief. (ECF No. 752).
17 Petitioner did not respond, and the time to do so has passed.

18 Also before the court is the government's motion for reconsideration or, in the alternative,
19 for clarification. (ECF No. 718). Petitioner filed a response (ECF No. 720), to which the
20 government replied (ECF No. 721).

21 Also before the court is petitioner's motion to extend time to reply to the government's
22 response. (ECF No. 754). The government did not respond, and the time to do so has passed.

23 Also before the court is petitioner's motion for court order for trial counsel's case file.
24 (ECF No. 748). Trial counsel Douglass A. Mitchell filed a response (ECF No. 755) and three
25 supplements thereto (ECF Nos. 756; 757; 759). Trial counsel Robert Wallach has not responded.

26 The government filed its motion to reconsider, arguing that the court failed to address its
27 pending motions to waive the attorney-client privilege (ECF No. 712) and extend time (ECF No.
28 714). (ECF No. 718). The court granted the government's motion to waive the attorney-client

1 privilege and allowed the court an additional 60 days, after receiving Mr. Mitchell and Mr.
2 Wallach's affidavits or declarations, to file its response to petitioner's § 2255 motion.¹ (ECF No.
3 730). Further, the government has already filed its response to petitioner's motion. (ECF No.
4 753). To the extent that the government's motion to extend time remains pending, it is hereby
5 granted. (ECF No. 714). Further, good cause appearing in light of the complexity of petitioner's
6 motion, the court retroactively grants the government's motion to file expanded brief. (ECF No.
7 752).

8 Having granted the government's motions, the court denies the government's motion to
9 reconsider as moot. (ECF No. 718).

10 The court now turns to petitioner's motion for court order for trial counsel's case file. (ECF
11 No. 748). Although he did not respond, Mr. Wallach indicated to petitioner's current counsel that
12 "[he] retained no Mazarella file when [he] closed [his] office" but that "all that exists can be
13 found as Mr. Mitchell indicates." (ECF No. 748-3 at 1). Mr. Mitchell filed a response and three
14 supplements thereto describing the documents he has sent to petitioner and the means by which he
15 did. (ECF Nos. 755; 756; 757; 759). In particular, Mr. Mitchell indicates that his "[s]upplemental
16 [p]roduction consists of more than seventeen thousand total documents (emails and attachments)." (ECF No. 759 at 3).

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18 Petitioner's motion requests "a copy of the case file from trial counsel." (ECF No. 748 at
19 2). In light of Mr. Mitchell's extensive production of documents, the court denies petitioner's
20 motion as moot.

21 Considering the foregoing discussion, the complexity of petitioner's § 2255 motion, and
22 the length of the government's response, the court finds that good cause appears to grant
23 petitioner's unopposed motion to extend time to reply to government's response. Further, the
24 motion is unopposed. *See* LR 7-2(d). ("The failure of an opposing party to file points and
25 authorities in response to any motion, except a motion under Fed. R. Civ. P. 56 or a motion for
26 attorney's fees, constitutes a consent to the granting of the motion."). The court grants petitioner's

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28 ¹ Nonetheless, the government's motion to extend time (ECF No. 714) appears to still be
pending before the court.

1 motion to extend time. (ECF No. 754). Petitioner shall file her reply to the government's response
2 on or before March 31, 2020.

3 Accordingly,

4 IT IS HEREBY ORDERED, ADJUDGED, and DECREED that the government's motion
5 for extension of time (ECF No. 714) be, and the same hereby is, GRANTED. The government's
6 deadline to respond is retroactively extended to October 18, 2019.

7 IT IS FURTHER ORDERED that the government's motion for leave to file expanded brief
8 (ECF No. 752) be, and the same hereby is, GRANTED.

9 IT IS FURTHER ORDERED that government's motion for reconsideration or, in the
10 alternative, for clarification (ECF No. 718) be, and the same hereby is, DENIED as moot.

11 IT IS FURTHER ORDERED that petitioner's motion for court order for trial counsel's
12 case file (ECF No. 748) be, and the same hereby is, DENIED as moot.

13 IT IS FURTHER ORDERED that petitioner's motion to extend time to reply to the
14 government's response (ECF No. 754) be, and the same hereby is, GRANTED.

15 IT IS FURTHER ORDERED that petitioner shall file her reply to the government's
16 response on or before March 31, 2020.

17 DATED January 16, 2020.

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19 UNITED STATES DISTRICT JUDGE